

3.1 Sustainable Procurement Policy

Policy Statement

In addition to establishing and maintaining a high level of public confidence in its procurement process, the Province of Nova Scotia recognizes the contribution that public-sector procurement has towards the sustainable prosperity of Nova Scotia. This policy has been designed to ensure the principles of public procurement are being adhered to, while supporting the sustainable procurement goal as identified in the *Environmental Goals and Sustainable Prosperity Act (2007)*.

The Province is committed to the following principles of public procurement that serve as the foundation for all Nova Scotia provincial Government procurement:

- Open
- Fair
- Sustainable
- Transparent
- Consistent
- Effective
- Efficient
- Competitive

Definitions

For the purposes of this policy, the following definitions are provided:

BEST VALUE

In order to establish the best value of goods/services/construction/facilities offered, bids may be evaluated not only on purchase price and life cycle cost considerations, but also items such as environmental considerations, social considerations, delivery, servicing, and the capacity of the bidder to meet other criteria as stated in the bid documents.

CORPORATE FINANCIAL MANAGEMENT SYSTEM (CFMS)

A financial management system that maintains and tracks corporate financial information, including the creation of official purchase orders. Most, but not all, Government departments use SAP as their official financial management system.

CONSTRUCTION

A construction, reconstruction, demolition, repair, or renovation of a building, structure, road or other engineering or architectural work. It does not include professional consulting services related to the construction contract, unless they are included in the procurement.

DEPARTMENT

Any department, office, agency, board or commission that is subject to the *Auditor General Act*, or any other public sector entity for whom compliance to this policy has been directed by the Minister responsible.

DEPUTY HEAD

The deputy minister or designate of a department, or the senior administrative officer of a Government agency, board, commission or office not reporting through a deputy minister.

EMPLOYEE

Employee refers to any person directly employed by a department as defined above.

FACILITIES (ALSO REFERRED TO AS BUILDING LEASES)

All building lease requirements covering the conveyance of the right to use tangible building property for a specified period of time in return for rent.

GOODS

Materials, furniture, merchandise, equipment, stationery and other supplies required by a department for the transaction of its business and affairs, and include services that are incidental to the provision of such supplies.

LIFE CYCLE COSTING

A type of analysis that goes beyond the purchase price and also considers the costs of items such as shipping and packaging, disposal of packaging, energy use, maintenance, warranty, parts and repairs, consumable supplies, disposal, training, etc

PROCUREMENT SERVICES

A division of Nova Scotia Economic and Rural Development (NSERD), responsible for the acquisition of goods, services, construction and facilities on behalf of a department.

PROCUREMENT SERVICES WEBSITE

<<http://www.gov.ns.ca/tenders>>

PUBLIC SECTOR ENTITY

Includes departments as described in section 2.0 of this policy, as well as academic institutions, school boards, health authorities, crown corporations or other agencies of government as described in section 2 of the *Auditor General Act*.

PUBLIC TENDER

A type of procurement where the acquisition of goods, services, construction or facilities must be obtained through public advertisement

SAP

See Corporate Financial Management System (CFMS)

SERVICES

A service required by a department for the transaction of its business and affairs, but does not include services provided by an employee of a department through a personal services contract.

STANDING OFFER

A Standing Offer is a contractual arrangement between the Province and a pre-approved supplier, where the supplier agrees to provide certain goods or services on an “as required” basis, during a particular period of time, at a predetermined price or discount, generally within a pre-defined dollar limit.

SUSTAINABLE PROCUREMENT

Sustainable Procurement involves taking a holistic approach to obtain best value for Government. This will be done by integrating the following considerations in the procurement process:

- Environmental considerations: e.g., Green House Gas Reduction, Waste Reduction, Toxic Use Reduction
- Economic considerations: e.g., Life Cycle Cost, Fiscal Responsibility, Support for the Local Economy
- Social considerations: e.g., Employee Health and Safety, Inclusiveness and Fair Wage, Health Promotion

Policy Objectives

Through this policy, the Province of Nova Scotia is committed to supporting our environment, economy and society through sustainable procurement whenever this can be practiced within our existing procurement principles by:

- Ensuring that the Government's requirements for goods, services, construction, and facilities are met through an open, fair, and transparent process that maximizes competition and value to the Government.
- Ensuring bidders have reasonable notice and opportunity to tender.
- Fostering economic development by ensuring every capable Nova Scotia supplier has opportunity to do business with the Government.
- Providing outreach programs that encourage competitiveness and innovation to Nova Scotia businesses which in turn will contribute to the sustainable prosperity of Nova Scotia.
- Ensuring Government procurement decisions consider the benefit to the environment and social fabric of Nova Scotia.
- Adhering to the Agreement on Internal Trade and the Atlantic Procurement Agreement, which create economic opportunities for Nova Scotians.
- Treating out of province bidders in the same way as their jurisdictions would treat bidders from Nova Scotia.
- Being accountable for procurement decisions.

Application

This full policy applies to all departments for the procurement of all goods, services, construction and facilities by purchase, contract, lease or long term rental.

The principles as outlined in section 1.0 and objectives as outlined in section 3.0 will apply to all Public Sector Entities.

This policy applies to the establishment of Strategic Infrastructure Partnerships but may not apply to subsequent procurement activity of successful proponents once the partnership is established.

Policy Directives

5.1 SUSTAINABLE PROCUREMENT

Departments are required to consider sustainable criteria in all procurement decisions. To guide the adoption of sustainable procurement, specifications will be developed on a category by category basis.

For those categories where specifications have been developed, all purchases within those categories no matter the dollar amount, must meet or exceed all environmental, economic and social guidelines as outlined in the specifications.

For those categories where specifications have not yet been developed, departments must to the best of their ability, consider sustainable criteria in their procurement decisions.

Additional supporting tools (e.g., fact sheets, guidance documents, etc.) will be posted to the Procurement Services website as they are developed and should be considered in support of sustainable procurement activities. These supporting tools will be available to all departments and Public Sector entities within Nova Scotia.

All employees who purchase goods, services and construction on behalf of the Province, will be required to enrol in and complete the on-line introductory training course for Sustainable Procurement by April 1st, 2010.

5.2 PROCUREMENT OF GOODS, SERVICES AND CONSTRUCTION

Goods, services or construction valued below \$10,000 excluding taxes

Departments have been delegated the authority to acquire goods, services or construction while ensuring the best value for the Province of Nova Scotia. In order to ensure best value, departments are expected to obtain competitive quotes whenever possible and award to the bid that provides the best value (see Appendix A for more details). For goods, services or construction valued below \$1,000 excluding taxes, quotes are not required.

The exception to obtaining competitive quotes would be when employees are using a Complementary Procurement Process as outlined in section 5.4.

Departments are also expected to ensure they are adhering to the Sustainable Procurement directive as outlined in section 5.1.

As part of this delegated authority, departments are responsible for ensuring their own compliance to this directive and are required to document their attempts to obtain best value. All documentation (including quotes) will remain at the department and will be subject to review by the Auditor General and /or the Corporate Audit Division of Department of Finance. The deputy head must ensure persons with signing authority are held accountable for all procurement transactions.

Goods, services or construction valued equal to and above \$10,000 excluding taxes

Working directly with Procurement Services, departments will acquire all goods, services and construction through the use of a public tender. The exception to this would be when employees are using a Complementary Procurement Process as outlined in section 5.4. Departments are also expected to ensure they are adhering to the Sustainable Procurement directive as outlined in section 5.1. In addition, to ensure an adequate degree of competition, a notice of tender opportunity may be sent to selected suppliers where required.

5.3 PROCUREMENT OF FACILITIES

For information regarding the procurement of facilities please see the Facilities Procurement Process Guide developed by the Department of Transportation & Infrastructure Renewal. This guide can be found on the Procurement Services website.

5.4 COMPLEMENTARY PROCUREMENT PROCESSES

Alternative Procurement Practices (ALTP)

In order for the Procurement Policy to balance the need to be open and competitive with the demands of urgent, specialized or exceptional circumstances, alternative procurement practices have been created. These processes must be used only for the purposes intended and not to avoid competition or to discriminate against specific suppliers. Any such request must be authorized by the deputy head or his or her designate. (see Appendix B for more details).

Nova Scotia Preference

In order to support the local manufacturing, agriculture and aquaculture industries, departments are authorized to apply a preference for goods up to and including \$10,000 excluding taxes, which are manufactured or produced in Nova Scotia, when it is determined to be in the best interest for the Province of Nova Scotia. This guideline has been established to support the principles of public procurement and buy local initiatives in Nova Scotia which support Nova Scotia small businesses and communities.

Permanent Exemptions

Individual departments may apply for a permanent exemption for certain goods or services that are considered at the sole discretion of Procurement Services not to be subject to tender. Any such request will follow the defined process as described in Appendix C and must be authorized by the deputy head or his or her designate and the Director of Procurement. A list of permanent exemptions will be made available through routine access to information.

Standing Offers

This policy permits the establishment of standing offers through a public tender process. To ensure fairness, maintain efficiencies and facilitate sustainable procurement for Government, departments must use existing standing offers for commonly purchased goods and services. This includes the use of the Government Stationary Stockroom as operated by Transportation and Infrastructure Renewal, for the acquisition of administrative and stationary supplies. In extenuating circumstances and in consultation with Procurement Services, departments may be given the right to acquire goods and services outside of existing Standing Offers.

Procedures on the usage and pre-defined limits of Standing Offers will be made available to users on the Procurement Services website. Standing Offers are made available to departments, as well as Public Sector entities in Nova Scotia.

Strategic Sourcing

Individual departments may, in special circumstances and in consultation with Procurement Services, consider the use of a source list of suppliers that can supply specific goods or services, approved on their ability to meet the end users requirements. A request must be made to Procurement Services regarding the establishment of a source list, and Procurement Services will make the final determination on the validity of the request and establish appropriate thresholds. Thresholds will not exceed the values permitted by applicable trade agreements. Procedures on the usage and limits of source lists will be made available to users on the Procurement Services website. A list of strategic sourcing opportunities will be made available through routine access to information.

Unsolicited Proposals

In order to promote innovation the Government has defined a process to deal with unsolicited proposals. When an unsolicited proposal is received, the Government may consider a range of options, including a pilot project, partnership, or other arrangement, that will be undertaken to assess the merit of the proposal as stated in the Guide to the Submission & Evaluation of Unsolicited Proposals. This guide can be found on the Procurement Services website. All unsolicited proposals must be authorized by the deputy head of the sponsoring department and Director of Procurement.

5.5 BID OPENING, EVALUATION AND AWARDS

Opening

Bids will be accepted in accordance with the closing time and date stipulated in the bid request. The list of companies that submitted a bid, the winning bidder and the award amount will be posted on the Procurement Services website.

Evaluation

All bid submissions are subject to evaluation after opening and before award of contract. The bid request documents must clearly identify the requirements of the procurement, the evaluation method, evaluation criteria based on the guiding principles as outlined in this policy, and the weights assigned to each criterion.

Award

After contracts have been awarded, access to tender documents is subject to the provisions of the *Freedom of Information and Protection of Privacy Act* through the issuing department.

Vendor Complaint Process

A method to handle formal supplier complaints and to improve the Government's procurement process is an integral part of a fair and open procurement policy. The Vendor Complaint Process Guide has been developed to allow Government to handle complaints in an organized, consistent manner, and to carry out the analysis and reporting requirements in order to improve upon the procurement process. This guide can be found on the Procurement Services website.

Policy Guidelines

6.1 COOPERATIVE PROCUREMENT

The Government encourages the joint procurement of goods and services used by all levels of the public sector when the arrangement results in overall best value or other substantial advantages. Crown corporations and organizations in the MASH sector may participate when such an arrangement will benefit both their organization and the Government. The Government may from time to time enter into a joint procurement activity with other jurisdictions if deemed to be in the best interest of the Government.

6.2 RECIPROCITY

Nova Scotia Vendors

Since not all provincial jurisdictions are prepared to provide reciprocal access to goods, services or construction requirements valued at less than Agreement on Internal Trade thresholds, the principles of fairness demand that Nova Scotia reserve the right to apply comparable limitations on access.

Departments, in consultation with Procurement Services, reserve the right to accept or reject, consider and evaluate bids from other jurisdictions on the same basis that the purchasing authorities in those jurisdictions would treat a Nova Scotia supplier for a similar requirement. Out of province suppliers who choose to respond to an opportunity would do so with the understanding that their submission may be rejected due to the practices of their home province.

Departments may consider at their sole discretion best overall value in their decision to accept a bid from a non-reciprocating provincial jurisdiction.

Atlantic Vendors

The Atlantic Canadian provinces are committed to providing fair and reciprocal access to business opportunities and to ensuring that the supplier community receives fair treatment in their dealings elsewhere in Canada. Based on the principles of the Atlantic Procurement Agreement and in the same context as outlined above departments may in consultation with Procurement Services reject a bid from a non-reciprocating provincial jurisdiction valued at less than Agreement on Internal Trade thresholds in favor of another Atlantic Provinces bidder.

6.3 SUPPLIER DEBRIEFING

Procurement Services offers a supplier debriefing session to provide constructive feedback from the evaluation. Suppliers can find out how their proposal scored against published criteria, obtain comments from the evaluation team on their bid, and gather information on how future submissions may be improved. Supplier's bids are not compared to other bids, nor will information on other bids be provided.

Accountability

MINISTER

The Minister responsible for the Department of Economic and Rural Development is responsible for promoting and implementing this policy.

DEPUTY HEAD

The deputy head of each department is responsible for ensuring compliance with this policy. Furthermore, when procurement is undertaken that is an alternative procurement, an unsolicited proposal, or is the result of an unauthorized procurement transaction, the deputy head or person with signing authority in the client department must approve the procurement, in consultation with Procurement Services.

EMPLOYEE

Any employee of a department must adhere to this policy. Failure to comply with policy may result in the deputy head withdrawing the procurement authority from an individual within a department.

Monitoring

RECORDING

Departments must ensure that all procurement transactions are authorized, properly recorded in the appropriate financial management system, and supported by the appropriate documentation.

AUDIT

All procurement activities will be subject to audit by the Auditor General and the Corporate Audit Division of the Department of Finance. Procurement activities within the procurement module of SAP are also subject to compliance testing by Procurement Services. The compliance testing results will be used for outreach and education programs. Any irregularities or concerns will be reported to the Corporate Audit Division of the Department of Finance.

REPORTING

An annual report that summarizes total procurement activity and economic impact will be prepared for the Deputy Minister responsible for Nova Scotia Government Procurement with a copy to the Auditor General.

Information will be contributed to the *Environmental Goals and Sustainable Prosperity Act* annual report in the area of sustainable procurement.

References

- *Government Procurement Act*
- *Environmental Goals and Sustainable Prosperity Act (EGSPA)*
- *Freedom of Information and Protection of Privacy Act (FOIPOP)*
- *Personal Information International Disclosure Protection Act (PIIDPA)*
- *Agreement on Internal Trade (AIT)*
- *Atlantic Procurement Agreement (APA)*
- *Construction Contract Guidelines*
- *Facilities Procurement Process*
- *Government of Nova Scotia Procurement Process: Architects and Professional Engineering Services*
- *Atlantic Provinces Standard Terms and Conditions*
- *Guide to the Submission and Evaluation of Unsolicited Proposals*

Enquiries

For further information or clarification regarding this policy, please contact:

Director of Procurement, Procurement Services
Nova Scotia Economic and Rural Development
P.O. Box 186
Halifax, Nova Scotia B3J 2N2
Phone: (902) 424-3333
Fax: (902) 424-0844

Appendices

- Appendix 3-A Delegated Procurement
- Appendix 3-B Alternative Procurements
- Appendix 3-C Permanent Exemption Process

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Appendix 3-A

Delegated Procurement

For all delegated procurements, departments are expected to obtain competitive quotes whenever possible and award to the bid that provides the best value for the Province of Nova Scotia. For goods, services or construction valued below \$1,000 excluding taxes, quotes are not required.

When selecting the list of suppliers to be provided the opportunity to quote, departmental personnel are responsible to ensure a fair and open process is followed. Departments are only required to invite qualified bidders, however they are not to consistently invite bids from the same or a select group of suppliers. Invitations and bidding opportunities are to be equitably distributed among all potential bidders in an area, and all interested and qualified suppliers are to be evaluated on a consistent and equitable basis. We recommend putting the names of the companies contacted in the header note of the purchase order.

Examples of when quotes may not always be possible:

- Vendors busy due to seasonal demand
- No response from vendors
- Vendors unable to meet specifications or timeframe
- Fewer vendors in remote areas
- Compatibility requirements

In situations where the department cannot or has not attempted to get quotes they are required to complete a **“Low Value ALTP Form”** which must be signed by the person making the purchase, as well as that person’s supervisor or the person with signing authority for the given business area. In all cases forms require two signatures and must be kept on file at the department for audit purposes. The “Low Value ALTP form” will be available on the Procurement Services website.

Appendix 3-B

Alternative Procurements

CONSULTATION

To ensure that they are used appropriately, each department must consult where appropriate with Procurement Services on their use of over tendering threshold alternative procurement practices (with the exception of an emergency). If in agreement, the department will make a request to their deputy head who must then approve or reject the recommendation. In case or cases of a disagreement between the department and Procurement Services the department may present the proposed alternative procurement to their deputy head for consideration and decision. All Alternative Procurement forms must be sent to Procurement Services for safe keeping and reporting.

DOCUMENTATION

The rationale permitting the alternative procurement practice will be documented on the appropriate forms and will provide substantiation for the actions taken should they be required for audit purposes.

DELEGATION OF SIGNING AUTHORITY

The deputy head may delegate signing authority for alternative procurement transactions that are equal to or greater than \$10,000 excluding taxes to an acting or assistant deputy head. It is the deputy head's responsibility to ensure that all procurement activities by their department are properly documented and recorded in the appropriate Corporate Financial Management System. In all cases the deputy head shall remain accountable for the proper use of alternative procurement transactions within his or her department.

CIRCUMSTANCES

Alternative Procurement transactions may be used in circumstances as described below.

- I. an **unforeseeable** situation of urgency or emergency where the good, service, or construction requirement cannot be obtained by means of open procurement procedures.

2. a situation where tendering could reasonably be expected to compromise Government confidentiality, cause economic disruption, or otherwise be contrary to the public interest.
3. to ensure compatibility with existing products; to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights; or to maintain specialized products that must be maintained by the manufacturer or its representative.
4. where, for technical reasons, there is an absence of competition, and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.
5. the procurement of goods or services for which there is a statutory monopoly that is controlled by a supplier.
6. the purchase of goods on a commodity market.
7. work to be performed on or about a leased building, or portions thereof, that may be performed only by the lessor.
8. work to be performed according to the provisions of a warranty or guarantee.
9. the procurement of a good or service to be developed in the course of and for a particular contract for research, experiment, study, or original development, but not for any subsequent purchases.
10. the procurement of goods or services for the purpose of evaluating or piloting new or innovative technology with demonstrated environmental, economic or social benefits when compared to conventional technology, but not for any subsequent purchases
11. the purchase of goods under exceptionally advantageous circumstances such as bankruptcy, receivership or used equipment, but not for routine purchases.
12. the procurement of original works of art.
13. processes that foster the development of minority businesses.
14. processes that foster the development of sheltered workshop programs.
15. goods intended for resale to the public.
16. goods and services from persons with disabilities, philanthropic institutions, or through employment equity programs.
17. services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.
18. unsolicited proposal

Appendix 3-C

Permanent Exemption Process

1. The department will initiate a meeting with the Director of Procurement to discuss the unique situation that may be eligible for a permanent exemption. At this point the Director will provide direction to the department as to what information Procurement Services would be looking for in the documented Business Case.
2. The department will prepare a documented business case outlining their unique situation for the formal review of the Director of Procurement. The Director of Procurement will either approve or decline the request at this point of the process.
3. If approved, the department will prepare a special permanent exemption form, and obtain the signature of their deputy head. This special exemption form is provided by the Director of Procurement to the department.
4. Once completed, this form and accompanying paper work will be returned to the Director of Procurement. This form will be kept on file along with the original business case for future reference.
5. Once the form is obtained from the department, the Director of Procurement will issue a unique exemption number that is to be used on all Purchase Orders.

